

ATTACHMENT F

DECISION AND EXPLANATION REGARDING RECIRCULATION OF THE REVISED DRAFT ENVIRONMENTAL IMPACT REPORT

LAS COLINAS DETENTION FACILITY

SCH # 2006091036

Date June 24, 2009

Pursuant to California Environmental Quality Act (CEQA) Guidelines, Section 15088.5(a), the County of San Diego is required to recirculate a draft EIR when significant new information is added to the draft EIR after public review of the draft EIR, but before certification. Significant new information can include changes in the project or environmental setting, as well as additional data or other information. New information added to a draft EIR is not significant unless the draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including feasible alternatives) that the project's proponents have declined to implement.

BACKGROUND: The County prepared a draft Environmental Impact Report (draft EIR) for the proposed project and circulated the draft EIR for public review from April 28, 2008, to June 12, 2008. The County received numerous comments on the draft EIR, some of which stated that the County should add more information to the draft EIR and recirculate it. In response to the comments, the County made substantial revisions to the document and circulated the revised draft version of this Environmental Impact Report (Revised DEIR) for public review from November 25, 2008, to January 9, 2009. A total of 75 comment letters were received by the County. The following public agencies and local organizations submitted comment letters on the revised DEIR: California Department of Toxic Substances Control, California Department of Transportation, San Diego Archaeological Society, City of Santee, Santee School District, Santee United Methodist Church, and New Frontier Home Owner's Association. Comment letters were also submitted by various individuals and local businesses. Responses to all comments received during the public review period were prepared and are included in the Final Environmental Impact Report (Final EIR).

DECISION: No "significant new information" has been added to the Draft EIR since public notice was given of the availability of the Draft EIR for public review, and, therefore, recirculation of the Draft EIR is not required.

EXPLANATION: CEQA Guidelines Section 15088.5 states that new information added to a Draft EIR is not significant unless the Draft EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse effect of the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation includes, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
- (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
- (3) A feasible project alternative or mitigation measure considerably different from the others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.
- (4) The Revised DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Changes to Project

In response to comments, the following changes were made to the project description:

- Acquisition of development rights to 16 acres subject to the Disposition and Development Agreement (DDA) with Ryan Companies has been added to the project description.
- Amount of fill to be imported has been changed from 89,000 cubic yards to 336,000 cubic yards of material.
- Construction timeline has been revised to clarify that site grading is anticipated to occur over a 12-month period prior to construction, and construction (including demolition) is expected to occur over a 36-month period.

None of these changes would cause a significant new impact or a substantial increase in severity of an existing impact. Acquisition of development rights to 16 acres subject to DDA with Ryan Companies is necessary to avoid an encroachment on to land subject to the DDA. This acquisition would not cause any new impacts or substantial increase in severity of existing impacts because the Revised DEIR analyzed the impacts of the proposed project at the project site, which includes these 16 acres. The project construction timeline was revised to reflect a more recent estimate of construction activities. This change would not cause any new impacts or substantial increase in severity of existing impacts because the type of construction activities during all phases of development remains the same. The amount of fill to be imported for the project was reevaluated based on a comment received from the City of Santee and was revised to provide a more accurate amount. This change would not cause any new impacts or

substantial increase in severity of existing impacts because the revised estimates for construction traffic, including truck haul trips during the site preparation phase of development, are below the estimated trips for the operational phase of the project which does not result in any direct impacts.

Transportation/Traffic

The analysis in Section 2.2.2.1 was revised to reflect a more recent estimate of construction-related truck trips and construction assumptions for the proposed project. Since the revised amount of construction traffic is still less than the amount of operational traffic (and would be temporary), no new or more severe impacts would result from the increased estimate of construction traffic. These changes would not cause any new impacts or substantial increase in severity of existing impacts because the conclusion as to traffic impacts remains the same.

Environmental Design Considerations

Section 7.0 of the Revised DEIR was revised to reflect the correct Environmental Design Considerations discussed in Section 1.2.1.1. The requirement to use alternative fuel in the vehicles that serve the proposed project is not included in the list of Project Design Features in Section 1.2.1.1. The analysis and conclusions in the Revised DEIR are based on the features listed in Section 1.2.1.1. Therefore, this alternative fuels requirement should not have been included in Section 7.0, and its deletion from Section 7.0 will not affect any of the conclusions in the Revised DEIR.

This change does not necessitate recirculation of the document because the change makes Section 7.0 consistent with Section 1.2.1.1. The change does not raise a significant new impact or a substantial increase in the severity of an existing impact.

Edgemoor: Construction of New Facility and Demolition of Old Facility

Changes have been made throughout the document to update the status of the construction of the Edgemoor Skilled Nursing Facility and the approval of the Edgemoor Demolition Project. These changes do not result in a new significant impact or a substantial increase in the severity of an existing impact because they are minor, non-substantive changes.

Comments on the Revised DEIR

Comment E-248 states the County must recirculate the EIR due to an incomplete project description, skewed project objectives and environmental analysis with respect to aesthetics, land use, public safety, urban decay, environmental justice and other impacts, failure to include feasible mitigation measures and conduct an adequate alternative analysis.

The Revised DEIR does not require recirculation. The Revised DEIR provides a complete and accurate description of the components of the proposed project including, but not limited to, building layout and capacity, operational functions, and design features.

The project objectives are not “skewed.” They were derived from needs identified by the experts who are responsible for law enforcement, incarceration, and rehabilitation of prisoners, and were developed based on the need for effective and efficient operation of the proposed facility.

The analysis of aesthetic impacts is not “skewed.” The placement, height and bulk of the buildings and the proposed landscaping plan are described and are shown in graphic form in the Revised DEIR. The dimensions of the structures were used to create visual simulations which represent the “worse case” building envelope of the structures. Based on detailed visual simulations, the Revised DEIR concluded that the project would not result in significant impacts related to aesthetics.

The analysis of public safety impacts is not “skewed.” Public safety concerns are social issues and are not issues that relate to physical effects on the environment. There is no evidence that public safety issues related to the proposed project would cause adverse physical effects.

The land use analysis is not “skewed.” The Santee General Plan and Town Center Specific Plan are not “applicable” to the proposed project, and, therefore, there is no requirement to discuss inconsistencies with these documents. However, the Revised DEIR considered the project’s potential physical environmental effects, both direct and indirect, that could result from the proposed project on existing and proposed land uses adjacent to or near LCDF. Those effects include aesthetics, traffic, noise, and air quality, all of which are fully analyzed and documented in the Revised DEIR. In addition, the proposed project incorporates design themes established in the City’s Town Center Specific Plan Design Guidelines.

The analysis of urban decay impacts is not “skewed.” As the Revised DEIR explains, there is no evidence that the proposed project would cause effects on public safety, property values, building vacancies, etc. that would result in adverse physical effects (urban decay). For example, the existing women’s detention facility has been in this location since 1977. Consequently, the property values in this area already reflect the fact that there is a women’s detention facility nearby. There is no reason to anticipate that a new, modern, albeit larger, detention facility would cause urban decay. The evidence is to the contrary, given the new development that has been approved, is being constructed, and is planned for this area.

The analysis of environmental justice is not “skewed.” Environmental justice is not a term defined in CEQA, nor is it an issue area that is specifically discussed or referenced in CEQA or the CEQA Guidelines. There is no requirement that an EIR analyze environmental justice issues.

The Revised DEIR fully discloses the project’s potential significant impacts and mitigation measures that would reduce these impacts to less than significant when feasible. No feasible mitigation measures exist for significant impacts to transportation/traffic and cultural resources. In addition the Revised DEIR included an

Alternatives Screening Report which reviewed 43 potential alternatives. Five of these alternatives were analyzed in detail in the Revised DEIR. Consequently, the Revised DEIR includes a reasonable range of alternatives as required by CEQA.

Comment I-12 states that in light of deficiencies in the document in regard to the County's DDA with Ryan Companies, the Revised DEIR must be revised. The comment claims that any necessary revisions to the Revised DEIR to address the encroachment on lands subject to the DDA would constitute new significant information that must be recirculated for public review. In the Final EIR, the project description has been changed to include the acquisition of development rights to 16 acres of the project footprint that are subject to DDA with Ryan Companies. This change has no effect on the analysis or conclusions in the Revised DEIR because the Revised DEIR analyzed the potential impacts of the proposed detention facility expansion project on 45 acres which include the 16 acres of the DDA. Therefore, no additional analysis is needed, and recirculation of the document is not required.

Significant new information has not been added since public notice of the Revised DEIR was made available. Information provided in the responses to comments or added to the Final EIR does not constitute significant new information under CEQA Guidelines 15088.5. Therefore, recirculation of the Revised DEIR is not required.

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